

Purnell to be Ambassador to the Republic of Uzbekistan, Margaret Scobey to be Ambassador to the Syrian Arab Republic, and Thomas Riley to be Ambassador to Morocco.

These are important posts to the war on terrorism, Mr. President, and I regret that the Republicans were unable to clear them in order for the full Senate to give its advice and consent to their confirmation. Again, the record should reflect that these nominees would have been confirmed today but for Republican objections.

## ORGAN DONATION AND RECOVERY IMPROVEMENT ACT

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 410, S. 573.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 573) to amend the Public Health Service Act to promote organ donation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pension with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 573

### [SECTION 1. SHORT TITLE.]

[This Act may be cited as the "Organ Donation and Recovery Improvement Act".]

## [TITLE I—ORGAN DONATION AND RECOVERY]

### [SEC. 101. INTERAGENCY TASK FORCE ON ORGAN DONATION.]

[Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended—

[(1) by redesignating section 378 (42 U.S.C. 274g) as section 378E; and

[(2) by inserting after section 377 (42 U.S.C. 274f) the following:

### ["SEC. 378. INTER-AGENCY TASK FORCE ON ORGAN DONATION AND RESEARCH.

["(a) IN GENERAL.—The Secretary shall establish an inter-agency task force on organ donation and research (referred to in this section as the "task force") to improve the coordination and evaluation of—

["(1) federally supported or conducted organ donation efforts and policies; and

["(2) federally supported or conducted basic, clinical and health services research (including research on preservation techniques and organ rejection and compatibility).

["(b) COMPOSITION.—

["(1) IN GENERAL.—The task force shall be composed of—

["(A) the Surgeon General, who shall serve as the chairperson; and

["(B) representatives to be appointed by the Secretary from relevant agencies within the Department of Health and Human Services (including the Health Resources and Services Administration, Centers for Medicare & Medicaid Services, National Institutes of Health, and Agency for Healthcare Research and Quality).

["(2) OTHER EX OFFICIO MEMBERS.—The Secretary shall invite the following individuals

to serve as ex officio members of the task force:

["(A) A representative from the Department of Transportation.

["(B) A representative from the Department of Defense.

["(C) A representative from the Department of Veterans Affairs.

["(D) A representative from the Office of Personnel Management.

["(E) A physician representative from the board of directors of the Organ Procurement and Transplantation Network.

["(F) Representatives of other Federal agencies or departments as determined to be appropriate by the Secretary.

["(c) ANNUAL REPORT.—In addition to activities carried out under subsection (a), the task force shall support the development of the annual report under section 378D(c).

["(d) TERMINATION.—The task force may be terminated at the discretion of the Secretary following the completion of at least 2 annual reports under section 378D(c). Upon such termination, the Secretary shall provide for the on-going coordination of federally supported or conducted organ donation and research activities."

### [SEC. 102. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.]

[Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378, as added by section 101, the following:

### ["SEC. 378A. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

["(a) GRANTS TO INCREASE DONATION RATES.—The Secretary shall award peer-reviewed grants to public and non-profit private entities, including States, to carry out studies and demonstration projects to increase organ donation and recovery rates, including living donation.

["(b) ORGAN DONATION PUBLIC AWARENESS PROGRAM.—The Secretary shall establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.

["(c) DEVELOPMENT OF CURRICULA AND OTHER EDUCATION ACTIVITIES.—

["(1) IN GENERAL.—The Secretary, in coordination with the Organ Procurement and Transplantation Network and other appropriate organizations, shall support the development and dissemination of model curricula to train health care professionals and other appropriate professionals (including religious leaders in the community, funeral directors, and law enforcement officials) in issues surrounding organ donation, including methods to approach patients and their families, cultural sensitivities, and other relevant issues.

["(2) HEALTH CARE PROFESSIONALS.—For purposes of subparagraph (A), the term "health care professionals" includes—

["(A) medical students, residents and fellows, attending physicians (through continuing medical education courses and other methods), nurses, social workers, and other allied health professionals;

["(B) hospital- or other health care-facility based chaplains; and

["(C) emergency medical personnel.

["(d) LIMITED DEMONSTRATION PROJECTS.—

["(1) REPORTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report evaluating the ethical implications of proposals for demonstration projects to increase cadaveric donation.

["(2) AUTHORITY.—Notwithstanding section 301 of the National Organ Transplant Act (42 U.S.C. 274e), upon the submission of and con-

sistent with the report by the Secretary under paragraph (1), the Secretary may conduct up to 3 demonstration projects to increase cadaveric donation.

["(3) DURATION.—Each project shall last no more than 3 years, and shall be conducted in a limited number of sites or areas.

["(4) REVIEW.—The Secretary shall provide for the ongoing ethical review and evaluation of such projects to ensure that such projects are administered effectively as possible and in accordance with the stated purpose of this subsection under paragraph (2).

["(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.

### ["SEC. 378B. GRANTS REGARDING HOSPITAL ORGAN DONATION COORDINATORS.

["(a) AUTHORITY.—

["(1) IN GENERAL.—The Secretary may award grants to qualified organ procurement organizations under section 371 to establish programs coordinating organ donation activities of eligible hospitals and qualified organ procurement organizations under section 371. Such activities shall be coordinated to increase the rate of organ donations for such hospitals.

["(2) ELIGIBLE HOSPITAL.—For purposes of this section, an eligible hospital is a hospital that performs significant trauma care, or a hospital or consortium of hospitals that serves a population base of not fewer than 200,000 individuals.

["(b) ADMINISTRATION OF COORDINATION PROGRAM.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that the program under such subsection will be carried out jointly—

["(1) by representatives from the eligible hospital and the qualified organ procurement organization with respect to which the grant is made; and

["(2) by such other entities as the representatives referred to in paragraph (1) may designate.

["(c) EVALUATIONS.—Within 3 years after the award of grants under this section, the Secretary shall ensure an evaluation of programs carried out pursuant to subsection (a) in order to determine the extent to which the programs have increased the rate of organ donation for the eligible hospitals involved. Such evaluation shall include recommendations on whether the program should be expanded to include other grantees, such as hospitals.

["(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a qualifying organ donation entity under this section unless such entity agrees that, with respect to costs to be incurred by the entity in carrying out activities for which the grant was awarded, the entity shall contribute (directly or through donations from public or private entities) non-Federal contributions in cash or in kind, in an amount equal to not less than 30 percent of the amount of the grant awarded to such entity.

["(e) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated \$3,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008."

### [SEC. 103. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.]

[Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378B, as added by section 102, the following:

**["SEC. 378C. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.**

["(a) DEVELOPMENT OF SUPPORTIVE INFORMATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality shall develop scientific evidence in support of efforts to increase organ donation and improve the recovery, preservation, and transportation of organs.

["(b) ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

["(1) conduct or support evaluation research to determine whether interventions, technologies, or other activities improve the effectiveness, efficiency, or quality of existing organ donation practice;

["(2) undertake or support periodic reviews of the scientific literature to assist efforts of professional societies to ensure that the clinical practice guidelines that they develop reflect the latest scientific findings;

["(3) ensure that scientific evidence of the research and other activities undertaken under this section is readily accessible by the organ procurement workforce; and

["(4) work in coordination with the appropriate professional societies as well as the Organ Procurement and Transplantation Network and other organ procurement and transplantation organizations to develop evidence and promote the adoption of such proven practices.

["(c) RESEARCH, DEMONSTRATIONS, AND TRAINING.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality, as appropriate, shall provide support for research, demonstrations, and training as appropriate, to—

["(1) develop a uniform clinical vocabulary for organ recovery;

["(2) apply information technology and telecommunications to support the clinical operations of organ procurement organizations;

["(3) enhance the skill levels of the organ procurement workforce in undertaking quality improvement activities; and

["(4) assess specific organ recovery, preservation, and transportation technologies.

["(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008."

**["SEC. 104. REPORTS.**

["Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378C, as added by section 103, the following:

**["SEC. 378D. REPORTS.**

["(a) IOM REPORT ON BEST PRACTICES.—

["(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations.

["(2) CONSIDERATIONS.—In conducting the evaluation under paragraph (1), the Institute of Medicine shall examine—

["(A) existing barriers to organ donation, including among minority populations; and

["(B) best donation and recovery practices, including—

["(i) mandated choice and presumed consent;

["(ii) organ procurement organization and provider consent practices (including consent best practices);

["(iii) the efficacy and reach of existing State routine notification laws with respect to organ procurement organizations;

["(iv) the impact of requests for consent in States where registry registration constitutes express consent under State law; and

["(v) recommendations with respect to achieving higher donation rates, including among minority populations.

["(3) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection. Such report shall include recommendations for administrative actions and, if necessary, legislation in order to replicate the best practices identified in the evaluation and to otherwise increase organ donation and recovery rates.

["(b) IOM REPORT ON LIVING DONATIONS.—

["(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of living donation practices and procedures. Such evaluation shall include, but is not limited to an assessment of issues relating to informed consent and the health risks associated with living donation (including possible reduction of long-term effects).

["(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection.

["(c) REPORT ON DONATION AND RECOVERY ACTIVITIES.—

["(1) IN GENERAL.—The Secretary as part of the report specified in 274d shall submit an evaluation concerning federally supported or conducted organ donation and recovery activities, including donation and recovery activities evaluated or conducted under the amendments made by the Organ Donation and Recovery Improvement Act to increase organ donation and recovery rates.

["(2) REQUIREMENTS.—To the extent practicable, each evaluation submitted under paragraph (1) shall—

["(A) evaluate the effectiveness of activities, identify best practices, and make recommendations regarding the adoption of best practices with respect to organ donation and recovery; and

["(B) assess organ donation and recovery activities that are recently completed, ongoing, or planned."

**["SEC. 105. TECHNICAL AMENDMENT CONCERNING ORGAN PURCHASES.**

["Section 301(c)(2) of the National Organ Transplant Act (42 U.S.C. 274e(c)(2)) is amended by adding at the end the following: "Such term does not include familial, emotional, psychological, or physical benefit to an organ donor, recipient, or any other party to an organ donation event."

**["TITLE II—LIVING DONATION EXPENSES**

**["SEC. 201. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.**

["Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

**["SEC. 377. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.**

["(a) IN GENERAL.—The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

["(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred as 'donating individuals'); and

["(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

["(b) PREFERENCE.—The Secretary shall, in carrying out subsection (a), give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

["(c) CERTAIN CIRCUMSTANCES.—The Secretary may, in carrying out subsection (a), consider—

["(1) the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

["(2) the term 'qualifying expenses' as including the expenses of having relatives or other individuals, not to exceed 2, who accompany or assist the donating individual for purposes of subsection (a) (subject to making payment for only such types of expenses as are paid for donating individual).

["(d) RELATIONSHIP TO PAYMENTS UNDER OTHER PROGRAMS.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

["(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

["(2) by an entity that provides health services on a prepaid basis; or

["(3) by the recipient of the organ.

["(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008."

**["TITLE III—ORGAN REGISTRIES**

**["SEC. 301. ADVISORY COMMITTEE.**

["Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 371 the following:

**["SEC. 371A. ADVISORY COMMITTEE.**

["(a) IN GENERAL.—Not later than 6 months after enactment, the Secretary shall establish an advisory committee to study existing organ donor registries and make recommendations to Congress regarding the costs, benefits, and expansion of such registries.

["(b) MEMBERSHIP.—The committee shall be composed of 10 members of whom—

["(1) at least 1 member shall be a physician with experience performing transplants;

["(2) at least 1 member shall have experience in organ recovery;

["(3) at least 1 member shall be representative of an organization with experience conducting national awareness campaigns and donor outreach;

["(4) at least 1 member shall be representative of a State with an existing donor registry;

["(5) at least 1 member shall have experience with national information systems where coordination occurs with State-based systems; and

["(6) at least 1 member shall represent donor families, transplant recipients, and those awaiting transplantation.

["(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

["(d) MEETINGS.—The committee shall meet at the call of the Chairman who shall be selected by the Secretary.

["(e) COMPENSATION.—Each member of the committee shall not receive compensation for services provided under this section.

["(f) TRAVEL EXPENSES.—The members of the committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the committee.

["(g) ADMINISTRATIVE SUPPORT.—The Secretary shall ensure that the committee is provided with administrative support or any other technical assistance that such committee needs in carrying out its duties.

["(h) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the committee established under this section.

["(i) REPORT.—Not later than 1 year after the date on which the committee is established under subsection (a), the committee shall prepare and submit to Congress a report regarding the status of organ donor registries, current best practices, the effect of organ donor registries on organ donation rates, the merits of expanding organ donor registries, issues relating to consent, the efficacy of current privacy protections, potential forms of technical assistance, and recommendations regarding improving the effectiveness and establishing formal linkages between organ donor registries.

["(j) DEFINITION.—In this section, the term 'organ donor registry' means a listing of individuals who have indicated their desire to donate their organs and tissue upon their death through driver's license preferences or other formal mechanisms."

#### **[SEC. 302. NATIONAL LIVING DONOR REGISTRY.]**

[Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.), as amended by section 301, is further amended by inserting after section 371A the following:

#### **["SEC. 371B. NATIONAL LIVING DONOR REGISTRY.]**

["The Secretary shall by contract establish and maintain a registry of individuals who have served as living organ donors for the purpose of evaluating the long-term health effects associated with living organ donations."

#### **[SEC. 303. QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.]**

[Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended by striking paragraph (3).]

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "Organ Donation and Recovery Improvement Act".

#### **SEC. 2. SENSE OF CONGRESS.**

(a) PUBLIC AWARENESS OF NEED FOR ORGAN DONATION.—It is the sense of Congress that the Federal Government should carry out programs to educate the public with respect to organ donation, including the need to provide for an adequate rate of such donations.

(b) FAMILY DISCUSSIONS OF ORGAN DONATIONS.—Congress recognizes the importance of families pledging to each other to share their lives as organ and tissue donors and acknowledges the importance of discussing organ and tissue donation as a family.

(c) LIVING DONATIONS OF ORGANS.—Congress—

(1) recognizes the generous contribution made by each living individual who has donated an organ to save a life; and

(2) acknowledges the advances in medical technology that have enabled organ transplantation with organs donated by living individuals to become a viable treatment option for an increasing number of patients.

#### **SEC. 3. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.**

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

#### **"SEC. 377. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.**

"(a) IN GENERAL.—The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

"(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred to as 'donating individuals'); and

"(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

"(b) PREFERENCE.—The Secretary shall, in carrying out subsection (a), give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

"(c) CERTAIN CIRCUMSTANCES.—The Secretary may, in carrying out subsection (a), consider—

"(1) the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

"(2) the term 'qualifying expenses' as including the expenses of having relatives or other individuals, not to exceed 2, who accompany or assist the donating individual for purposes of subsection (a) (subject to making payment for only those types of expenses that are paid for a donating individual).

"(d) RELATIONSHIP TO PAYMENTS UNDER OTHER PROGRAMS.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

"(2) by an entity that provides health services on a prepaid basis; or

"(3) by the recipient of the organ.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'donating individuals' has the meaning indicated for such term in subsection (a)(1), subject to subsection (c)(1).

"(2) The term 'qualifying expenses' means the expenses authorized for purposes of subsection (a), subject to subsection (c)(2).

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 2004 through 2008."

#### **SEC. 4. PUBLIC AWARENESS; STUDIES AND DEMONSTRATIONS.**

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 377 the following:

#### **"SEC. 377A. PUBLIC AWARENESS; STUDIES AND DEMONSTRATIONS.**

"(a) ORGAN DONATION PUBLIC AWARENESS PROGRAM.—The Secretary shall, directly or through grants or contracts, establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.

"(b) STUDIES AND DEMONSTRATIONS.—The Secretary may make peer reviewed grants or contracts to public and nonprofit private entities for the purpose of carrying out studies and demonstration projects to increase organ donation and recovery rates, including living donation.

"(c) GRANTS TO STATES.—The Secretary may make grants to States for the purpose of assisting States in carrying out organ donor aware-

ness, public education and outreach activities, and programs designed to increase the number of organ donors within the State, including living donors. To be eligible, each State shall—

"(1) submit an application to the Department in the form prescribed;

"(2) establish yearly benchmarks for improvement in organ donation rates in the State; and

"(3) report to the Secretary on an annual basis a description and assessment of the State's use of these grant funds, accompanied by an assessment of initiatives for potential replication in other States.

Funds may be used by the State or in partnership with other public agencies or private sector institutions for education and awareness efforts, information dissemination, activities pertaining to the State donor registry, and other innovative donation specific initiatives, including living donation.

"(d) EDUCATIONAL ACTIVITIES.—The Secretary, in coordination with the Organ Procurement and Transplantation Network and other appropriate organizations, shall support the development and dissemination of educational materials to inform health care professionals and other appropriate professionals in issues surrounding organ, tissue, and eye donation including evidence-based proven methods to approach patients and their families, cultural sensitivities, and other relevant issues.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$15,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008. Such authorization of appropriations is in addition to any other authorizations of appropriations that are available for such purpose.

#### **"SEC. 377B. GRANTS REGARDING HOSPITAL ORGAN DONATION COORDINATORS.**

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary may award grants to qualified organ procurement organizations and hospitals under section 371 to establish programs coordinating organ donation activities of eligible hospitals and qualified organ procurement organizations under section 371. Such activities shall be coordinated to increase the rate of organ donations for such hospitals.

"(2) ELIGIBLE HOSPITAL.—For purposes of this section, an eligible hospital is a hospital that performs significant trauma care, or a hospital or consortium of hospitals that serves a population base of not fewer than 200,000 individuals.

"(b) ADMINISTRATION OF COORDINATION PROGRAM.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that the program under such subsection will be carried out jointly—

"(1) by representatives from the eligible hospital and the qualified organ procurement organization with respect to which the grant is made; and

"(2) by such other entities as the representatives referred to in paragraph (1) may designate.

"(c) REQUIREMENTS.—Each entity receiving a grant under subsection (a) shall—

"(1) establish joint organ procurement organization and hospital designated leadership responsibility and accountability for the project;

"(2) develop mutually agreed upon overall project performance goals and outcome measures, including interim outcome targets; and

"(3) collaboratively design and implement an appropriate data collection process to provide ongoing feedback to hospital and organ procurement organization leadership on project progress and results.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to interfere with regulations in force on the date of enactment of the Organ Donation and Recovery Improvement Act.

"(e) EVALUATIONS.—Within 3 years after the award of grants under this section, the Secretary shall ensure an evaluation of programs

carried out pursuant to subsection (a) in order to determine the extent to which the programs have increased the rate of organ donation for the eligible hospitals involved.

“(f) **MATCHING REQUIREMENT.**—The Secretary may not award a grant to a qualifying organ donation entity under this section unless such entity agrees that, with respect to costs to be incurred by the entity in carrying out activities for which the grant was awarded, the entity shall contribute (directly or through donations from public or private entities) non-Federal contributions in cash or in kind, in an amount equal to not less than 30 percent of the amount of the grant awarded to such entity.

“(g) **FUNDING.**—For the purpose of carrying out this section, there are authorized to be appropriated \$3,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

**SEC. 5. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.**

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 377B, as added by section 4, the following:

**“SEC. 377C. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.**

“(a) **DEVELOPMENT OF SUPPORTIVE INFORMATION.**—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality shall develop scientific evidence in support of efforts to increase organ donation and improve the recovery, preservation, and transportation of organs.

“(b) **ACTIVITIES.**—In carrying out subsection (a), the Secretary shall—

“(1) conduct or support evaluation research to determine whether interventions, technologies, or other activities improve the effectiveness, efficiency, or quality of existing organ donation practice;

“(2) undertake or support periodic reviews of the scientific literature to assist efforts of professional societies to ensure that the clinical practice guidelines that they develop reflect the latest scientific findings;

“(3) ensure that scientific evidence of the research and other activities undertaken under this section is readily accessible by the organ procurement workforce; and

“(4) work in coordination with the appropriate professional societies as well as the Organ Procurement and Transplantation Network and other organ procurement and transplantation organizations to develop evidence and promote the adoption of such proven practices.

“(c) **RESEARCH AND DISSEMINATION.**—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, as appropriate, shall provide support for research and dissemination of findings, to—

“(1) develop a uniform clinical vocabulary for organ recovery;

“(2) apply information technology and telecommunications to support the clinical operations of organ procurement organizations;

“(3) enhance the skill levels of the organ procurement workforce in undertaking quality improvement activities; and

“(4) assess specific organ recovery, preservation, and transportation technologies.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

**SEC. 6. REPORT RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.**

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by insert-

ing after section 377C, as added by section 5, the following:

**“SEC. 377D. REPORT RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.**

“(a) **IN GENERAL.**—Not later than December 31, 2005, and every 2 years thereafter, the Secretary shall report to the appropriate committees of Congress on the activities of the Department carried out pursuant to this part, including an evaluation describing the extent to which the activities have affected the rate of organ donation and recovery.

“(b) **REQUIREMENTS.**—To the extent practicable, each report submitted under subsection (a) shall—

“(1) evaluate the effectiveness of activities, identify effective activities, and disseminate such findings with respect to organ donation and recovery;

“(2) assess organ donation and recovery activities that are recently completed, ongoing, or planned; and

“(3) evaluate progress on the implementation of the plan required under subsection (c)(4).

“(c) **INITIAL REPORT REQUIREMENTS.**—The initial report under subsection (a) shall include the following:

“(1) An evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations including an examination across all populations, including those with low organ donation rates, of—

“(A) existing barriers to organ donation; and

“(B) the most effective donation and recovery practices.

“(2) An evaluation of living donation practices and procedures. Such evaluation shall include an assessment of issues relating to informed consent and the health risks associated with living donation (including possible reduction of long-term effects).

“(3) An evaluation of—

“(A) federally supported or conducted organ donation efforts and policies, as well as federally supported or conducted basic, clinical, and health services research (including research on preservation techniques an organ rejection and compatibility); and

“(B) the coordination of such efforts across relevant agencies within the Department and throughout the Federal Government.

“(4) An evaluation of the costs and benefits of State donor registries, including the status of existing State donor registries, the effect of State donor registries on organ donation rates, issues relating to consent, and recommendations regarding improving the effectiveness of State donor registries in increasing overall organ donation rates.

“(5) A plan to improve federally supported or conducted organ donation and recovery activities, including, when appropriate, the establishment of baselines and benchmarks to measure overall outcomes of these programs. Such plan shall provide for the ongoing coordination of federally supported or conducted organ donation and research activities.”.

**SEC. 7. NATIONAL LIVING DONOR MECHANISMS.**

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.), is amended by inserting after section 371 the following:

**“SEC. 371A. NATIONAL LIVING DONOR MECHANISMS.**

“The Secretary is authorized to establish and maintain mechanisms to evaluate the long-term effects associated with living organ donations by individuals who have served as living donors.”.

**SEC. 8. STUDY.**

Not later than December 31, 2004, the Secretary of Health and Human Services, in consultation with appropriate entities, including advocacy groups representing those populations that are likely to be disproportionately affected

by proposals to increase cadaveric donation, shall submit to the appropriate committees of Congress a report that evaluates the ethical implications of such proposals.

**SEC. 9. QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.**

Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended by striking paragraph (3).

**AFRICAN AMERICANS ON THE ORGAN TRANSPLANT WAITING LIST**

Mr. KENNEDY. Mr. President, I wish to engage in a colloquy with the distinguished majority leader, the Senator from Tennessee, Mr. FRIST. I appreciate his efforts on the bill before us today, and agree that this is a vitally important area. I believe this bill represents a good first step, but I would point out that minorities comprise over 40 percent of the organ transplant waiting list, even though they represent approximately 25 percent of the population. Half of the patients who needlessly die while awaiting a transplant are minorities.

African Americans are more likely to have end stage renal disease because they have the highest rate of hypertension in the world. Almost 40 percent of Americans on the waiting list for kidneys are African American, but they receive only 20 percent of available kidneys.

Evidence suggests that African Americans may face discrimination during the transplantation process. White patients are 5 times more likely than African Americans to receive transplants, even when they are equally qualified.

We must increase our commitment to ending health disparities. I believe that more must be done to improve the rates of organ donation among minority communities and focus specifically among these populations to determine what the barriers to organ donation and transplantation currently are, as well as devise mechanisms to reduce or eliminate such barriers.

I am disappointed that the legislation did not include provisions to directly address the disparity in organ donation and transplantation and the special needs of minority populations. I had hoped to include these provisions.

Nonetheless, the need to enhance organ donation is too compelling to ignore, and for that reason, I am supporting the current legislation. It is our expectation that recipients of grant awards and contracts authorized under this Act will include consideration of minority concerns in all activities.

I hope to work with the majority leader next year to address this critical issue.

Mr. FRIST. I appreciate the remarks of the Senator from Massachusetts. As the Senator knows, the question of health care disparities is a keenly important issue to me. He and I have successfully worked in this area in the past, and I hope will be able to similarly collaborate in the future.

Much work in the area of minorities and organ donation is happening today.

These issues were strong recommendations of the Secretary's Advisory Committee on Transplantation, and COT in fact went further and requested a study from NIH to define the reasons for African Americans to have diminished graft survival. And just earlier this fall, HRSA announced 8 grants that it was funding to test social and behavioral interventions to increase organ and tissue donation—five of these, totaling more than \$1.6 million, focused on minority and underserved populations.

And we have a bill today that has been developed through a bipartisan, bicameral process intended to allow us to make quick action on the bill. I appreciate the Senator's willingness to support this bill, and look forward to working with him in this area next year.

Mr. KENNEDY. I commend his work and congratulate him on passage of this bill. I look forward to working with the Senator from Tennessee and others to build on this important start and draft bipartisan legislation in the next session to address the unique health and health care needs of minority and underserved populations.

Mr. MCCONNELL. I ask unanimous consent that the committee substitute be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 573), as amended, was read the third time and passed.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 478, 490, 495 through 508, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### NOMINATIONS

##### DEPARTMENT OF HOMELAND SECURITY

Michael J. Garcia, of New York, to be an Assistant Secretary of Homeland Security.

##### DEPARTMENT OF HOMELAND SECURITY

James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security.

#### AIR FORCE

The following named officer for appointment in the United States Air Force to the

grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

#### To be lieutenant general

Maj. Gen. William Welser, III, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

#### To be brigadier general

Colonel Paul F. Capasso, 0000  
Colonel Floyd L. Carpenter, 0000  
Colonel William A. Chambers, 0000  
Colonel Paul A. Dettmer, 0000  
Colonel David K. Edmonds, 0000  
Colonel Jack B. Egginton, 0000  
Colonel David J. Eichhorn, 0000  
Colonel David W. Eidsaune, 0000  
Colonel Burton M. Field, 0000  
Colonel Alfred K. Flowers, 0000  
Colonel Randal D. Fullhart, 0000  
Colonel Marke F. Gibson, 0000  
Colonel Robert H. Holmes, 0000  
Colonel Stephen L. Hoog, 0000  
Colonel Larry D. James, 0000  
Colonel Ralph J. Jodice, II, 0000  
Colonel Jan Marc Jouas, 0000  
Colonel Jay H. Lindell, 0000  
Colonel Kay C. McClain, 0000  
Colonel Robert H. McMahon, 0000  
Colonel Stephen P. Mueller, 0000  
Colonel William J. Rew, 0000  
Colonel Katherine E. Roberts, 0000  
Colonel Kip L. Self, 0000  
Colonel Michael A. Snodgrass, 0000  
Colonel David M. Snyder, 0000  
Colonel Larry O. Spencer, 0000  
Colonel Robert P. Steel, 0000  
Colonel Thomas J. Verbeck, 0000  
Colonel James A. Whitmore, 0000  
Colonel Bobby J. Wilkes, 0000  
Colonel Robert M. Worley, II, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

#### To be brigadier general

Col. Stephen L. Lanning, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

#### To be major general

Brigadier General Robin E. Scott, 0000

#### ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be lieutenant general

Maj. Gen. Larry J. Dodgen, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be lieutenant general

Maj. Gen. John M. Curran, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

#### To be major general

Brig. Gen. Keith M. Huber, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

#### To be major general

Brig. Gen. Dennis E. Hardy, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

#### To be major general

Brig. Gen. James R. Sholar, 0000

#### To be brigadier general

Col. Henry J. Ostermann, 0000

#### NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be vice admiral

Rear Adm. Walter B. Massenburg, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

#### To be rear admiral

Rear Adm. (lh) Robert E. Cowley, III, 0000

Rear Adm. (lh) Steven W. Maas, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

#### To be rear admiral (lower half)

Capt. Brian G. Brannman, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

#### To be rear admiral (lower half)

Capt. Raymond K. Alexander, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

#### To be rear admiral

Rear Adm. (lh) Donald K. Bullard, 0000  
Rear Adm. (lh) Albert M. Calland, III, 0000  
Rear Adm. (lh) Robert T. Conway, Jr., 0000  
Rear Adm. (lh) John J. Donnelly, 0000  
Rear Adm. (lh) Bruce B. Engelhardt, 0000  
Rear Adm. (lh) Charles S. Hamilton, II, 0000  
Rear Adm. (lh) John C. Harvey, Jr., 0000  
Rear Adm. (lh) Carlton B. Jewett, 0000  
Rear Adm. (lh) Matthew G. Moffit, 0000  
Rear Adm. (lh) Michael P. Nowakowski, 0000  
Rear Adm. (lh) Harold D. Starling, II, 0000  
Rear Adm. (lh) James Stavridis, 0000  
Rear Adm. (lh) Michael C. Tracy, 0000  
Rear Adm. (lh) John J. Waickwicz, 0000

#### AIR FORCE

PN1073 Air Force nomination of Gary H. Sharp, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1074 Air Force nomination of Jeffrey N. Leknes, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1075 Air Force nomination of Samuel B. Echaure, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1076 Air Force nominations (2) beginning THOMAS E. JAHN, and ending RODNEY D. LEWIS, which nominations were received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1077 Air Force nominations (5) beginning SAMUEL C. FIELDS, and ending KEVIN C. ZEECK, which nominations were received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1116 Air Force nomination of Robert G. Cates, III, which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1117 Air Force nomination of Mary J. Quinn, which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1118 Air Force nominations (2) beginning CHRISTOPHER C. ERICKSON, and ending MARK A. MCCLAIN, which nominations were received by the Senate and appeared in